

Thereupon Alderman Woods introduced an ordinance entitled:

# 297

AN ORDINANCE CREATING A BOARD OF ELECTRIC PUBLIC UTILITIES COMMISSIONERS TO OPERATE AND MANAGE THE ELECTRIC PUBLIC UTILITIES ACQUIRED OR TO BE ACQUIRED BY THE CITY OF LAS ANIMAS; PRESCRIBING THE POWERS AND DUTIES OF SAID BOARD, PROVIDING DETAILS IN CONNECTION THEREWITH, AND DECLARING AN EMERGENCY.

# 297

WHEREAS, a plan for the acquisition of a municipal light and power system was adopted by Ordinance No. 290, Series 1940, enacted by the City Council of the City of Las Animas the 17th day of December, 1940, and said ordinance was approved by a majority of such of the qualified property electors of the City of Las Animas as had paid a property tax therein during the year preceeding the year of the election, voting at an election held within said city on the 14th day of January, 1941.

WHEREAS, by Ordinance No. 294, duly adopted and approved on the 22nd day of October, 1941, there were authorized to be issued City of Las Animas Electric Light and Power Revenue Bonds in an amount not exceeding \$420,000.00; and

WHEREAS, an option agreement has been entered into by and between the City of Las Animas and The Western Public Service Company, dated September 16, 1941, wherein the City of Las Animas agreed to buy and The Western Public Service Company agreed to sell the properties of The Western Public Service Company situated in Bent County, Colorado, which option was exercised by the City of Las Animas on or before January 1, 1942; and

WHEREAS, pursuant to the terms of said option agreement, the City acquired a municipal electric light and power system financed by the issuance of bonds to Robert E. Schweser Company, in the approximate amount of \$400,000.00; and

WHEREAS, the City of Las Animas had agreed with Robert E. Schweser Company to adopt an ordinance providing for the creation of a non-political Board of Electric Public Utilities Commissioners in order to insure the economical operation and management of the Municipal light and power system, to the end that the bonds payable solely from the revenue of said system be paid and retired in accordance with the terms of the ordinance providing for their issuance; and

# 297  
 WHEREAS, it is the intention of the City Council, in order to insure the economical operation and management of the electric public utilities now owned by the City, or hereafter acquired, and in order to insure the payment of its Electric Light and Power Revenue Bonds, to provide for the creation of a non-political Board of Electric Public Utilities Commissioners in the manner hereinafter provided;

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAS ANIMAS:

Section 1. That there shall be and there hereby is created a non-political Board of Electric Public Utilities Commissioners of five members, to have complete charge and control of the municipal electric light and power system of the City of Las Animas, and also of such other electric public utilities as may hereafter be acquired by the City; provided that any of the City of Las Animas Electric Light and Power Revenue Bonds authorized by Ordinance No. 294, or any bonds issued for the purpose of refunding the same, are outstanding and unpaid, a representative of such bondholders shall be appointed for a six year term by the Mayor, with the assent of the City Council to serve as an honorary member of said Board, but without power to vote.

Section 2. That the Mayor of the City of Las Animas be, and he hereby is, authorized and directed to appoint, with the approval of a majority of the City Council, four qualified electors of the City of Las Animas as members of said Board of Electric Public Utilities Commissioners. The term of office of one of the commissioners so appointed shall expire when his successor has been duly elected at the regular City election in 1943; the term of office of one of the commissioners so appointed shall expire when his successor has been duly elected at the regular City election in 1945; the term of office of one of the commissioners so appointed shall expire when his successor has been duly elected at the regular City election in 1947; the term of office of one of the commissioners so appointed shall expire when his successor has been duly elected at the regular City election in 1949; on the first regular City election in 1943, and each two years thereafter, there shall be elected from the qualified electors of the City of Las Animas, one commissioner for a term of 8 years to succeed the commissioner whose term of office expires at that time. All such elections shall be called, conducted and the results ascertained and declared in the same manner as prescribed by law for the holding of municipal elections in cities of the second class. An elector of the City of Las Animas qualified to vote at the general municipal election shall be qualified to vote for or against candidates to be elected to said Board; provided that such elector has been registered in accordance with law for the general municipal election.

Section 3. That the qualified and acting Mayor of the City of Las Animas shall be ex-officio a member of the Board of Electric Public Utilities Commissioners during his term of office.

Section 4. That said commissioners shall serve as members of said Board without compensation. Each member shall serve until his successor is duly elected and qualified.

# 297

Any vacancy occurring in the membership of said Board shall be filled in the following manner: (a) In case the vacancy occurs in the office of one of the commissioners elected to office by the qualified electors of the City of Las Animas as aforesaid, then a majority of the remaining members of the said Board shall appoint a successor from the duly qualified electors of the City to fill the vacancy and to serve for the balance of the term; (b) In case of a vacancy in the office of the Mayor, such vacancy shall be filled in the manner provided by the statutes of the State of Colorado then in force, and the Mayor selected to fill the vacancy shall thereupon become ex-officio a member of the Board of Electric Public Utilities Commissioners; and (c) In case the vacancy occurs in the office of the honorary member of the Board, the vacancy shall be filled by appointment by the Mayor, with the approval of a majority of the Council, of an individual qualified to represent the interests of the bondholders.

Section 5. That the Board of Electric Public Utilities Commissioners shall hold one regular meeting each month and such other meetings as may be determined by the Board, at such times and place as it may by resolution provide. The Mayor of the City of Las Animas shall act as Chairman of said Board, with the privilege of voting on all questions that may come before the Board, and said Board shall elect from its membership a secretary. A majority of the Board shall constitute a quorum and all action by the Board shall be taken by a majority thereof and not otherwise. All meetings shall be open and public. The Mayor, as Chairman, or any three commissioners, shall have the power to call special meetings upon twenty-four hours' written notice served upon each commissioner either in person or by leaving a copy of such notice at his residence.

Section 6. The Board of Electric Public Utilities Commissioners shall have the following powers:

(1) To employ a competent operating manager for the municipal Electric Light and Power Utility now owned or hereafter acquired by the City of Las Animas, who may or may not be a resident of said City, and to fix the compensation of such manager, to be paid from the revenues derived from the utility, provided, however, that the compensation to be paid such manager shall at all times be reasonable, shall be compatible with the revenues earned by the utility and not in excess of the customary salaries paid to managers by municipally owned utilities having a similar status as to population, revenues etc., to the City of Las Animas. Such manager may be discharged at any time by the affirmative action of a majority of the Board.

(2) To fix the rates charged for services rendered by any Electric Public Utility operated by the City. all such rates shall be uniform as far as practicable and as low as good service will permit, after making adequate provision for depreciation of the utility and after making similar provision for the payment of the principal of and interest on any bonds which are payable, in whole or in part, from the revenues of such utility, in accordance with the ordinance or ordinances authorizing the issuance of such bonds.

# 291  
 (3) To provide for all reasonable extensions and betterments to any such electric public utility so as to insure its efficient operation, the costs of all such extensions and betterments to be paid from the revenues derived from the operation of the utility; provided, however, that no extensions or betterments to any such utility shall be made except in accordance with the terms of the ordinance or ordinances, if any, authorizing the issuance of bonds payable, wholly or in part, from the revenues derived from the operation of such utility; and provided further, that no contract for any such extensions or betterments involving an expenditure of more than \$500.00 shall be made by said Board, unless the terms thereof are first approved by ordinance adopted by the City Council.

(4) To purchase and lease all supplies and equipment necessary or proper for the efficient and economical operation of said public utility owned and operated by the City; provided that no purchase or lease involving a total consideration of more than \$2500.00 shall be made, unless the terms thereof have first been approved by ordinance adopted by the City Council

(5) To sell and dispose of all equipment and supplies not used or fully usable in connection with the operation of such public utility; provided that no such sale or disposal involving a consideration of more than \$150.00 shall be made, unless the terms thereof have first been approved by ordinance adopted by the City Council; and provided further, that such sale or disposal shall be made only in accordance with the terms and provisions of any ordinance or ordinances authorizing the issuance of bonds payable, in whole or in part, from the revenues of such utility; and provided further, that said Board shall have no power to mortgage, pledge or otherwise encumber such utility, or any part thereof, or the revenues derived from its operation.

Sec. (7) The City Attorney shall be the legal advisor of the Board of Electric Public Utilities Commissioners and shall render all legal services required by the Board without additional compensation, unless such additional compensation be first authorized by the City Council. The City Treasurer of the City of Las Animas shall act as the legal custodian for any funds under the control of said Board of Electric Public Utilities Commissioners. The said Board shall render a monthly statement, certified to by the Treasurer of the City of Las Animas as being correct, to the City Council, which statement shall cover with reasonable detail the financial operations of the Board. The accounts of said Board shall annually be audited by a certified public accountant satisfactory to the City Council.

Section 8. By reason of the necessity of providing immediately for the management of the electric public utility now owned or hereafter acquired by the City of Las Animas, it is hereby declared that an emergency exists and that this ordinance is necessary for the public peace, health and safety, and that it shall become effective five days after its final publication.

# 297  
Section 9. That the provisions of this ordinance shall constitute an irrevocable contract between the City of Las Animas and the holder or holders of any bonds of the City of Las Animas, payable, in whole or in part, from revenues derived or to be derived from the operation of any electric ~~utility~~ public utility owned by the City of Las Animas.

Section 10. That all ordinances, resolutions and orders, or parts thereof, in conflict with the provisions of this ordinance, are to the extent of such conflict hereby repealed.

INTRODUCED, READ AND ORDERED PUBLISHED THIS 4th DAY OF JANUARY 1943.

/s/ F.H.Vandiver  
Mayor

ATTEST:

/s/ D.A.McAfee  
City Clerk

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